



PATENT: OC01628K

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Michael P. Dwyer *et al.*

Appln. No.: **10/664,338**

Conf. No.: **4130**

Filed: **September 17, 2003**

For: **"Novel Imidazopyridines as Cyclin
Dependent Kinase Inhibitors"**

Examiner: Evelyn Huang

Group Art Unit: 1625

Date: July 9, 2004

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE

Sir:

This communication is in response to the Official Action dated June 9, 2004 in the above-identified application.

Claims 1-31 are pending in the application. The Examiner has restricted the invention into the following four groups:

Group I: Claims 1-19, 29 and 31, drawn to a compound of formula III and the composition thereof;

Group II: Claim 20, drawn to a method of inhibiting cyclin dependent kinase;

Group III: Claims 21-25, drawn to a method of treating a disease associated with cyclin dependent kinase; and

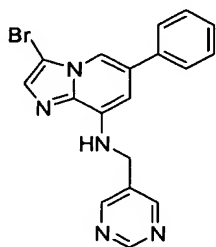
Group IV: Claims 26-28 and 30, drawn to a composition comprising a compound of the present invention and an additional anticancer agent and the method of use thereof.

The Examiner contends that Group I-IV inventions are distinct and that different searches will be required. Applicants traverse this restriction on the basis of the procedures set forth in the Manual of Patent Examining Procedure ("MPEP").

The MPEP states that "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." MPEP § 803. Applicants respectfully submit that a search for the Group I compounds, Group II-III methods and Group IV compositions could be carried out simultaneously. A search for a compound of the invention would reveal any art for methods of using the compound and compositions comprising the compound. Thus, there would be no serious search burden on the Examiner if restriction were not required.

Applicants therefore respectfully request that the Examiner consider Group I-IV together. If the Examiner does not agree with this proposal, pursuant to 37 C.F.R. § 1.143, applicants provisionally elect with traverse the claims of Group I (claims 1-19, 29 and 31) for initial substantive examination. This election is made expressly without waiver of their rights to file for and obtain claims directed to the unelected subject matter in divisional or continuing applications claiming priority and benefit from this application under 35 U.S.C. § 120.

The Examiner has also required applicants to elect a species. In response to this requirement, applicants elect the following compound (specification page 11, Table 1):



. Claims 1-31 read upon the elected species.

Applicants will request rejoinder of claims 20-28 and 30 with the elected group if and when any of claims 1-19, 29 and 31 are found allowable. Accordingly, applicants have not canceled these claims.

Should the Examiner feel that a telephone conference with applicants' representatives would assist the Examiner, she is invited to telephone the undersigned at anytime. Applicants request favorable consideration of the application and early allowance of the pending claims.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Min Wang', with a long horizontal flourish extending to the right.

Min Wang
Registration No. 51,303
Attorney for Applicants
Tel: 908-298-5037
Fax: 908-298-5388